

Scott L. Campbell, ISB No. 2251
Angela Schaer Kaufmann, ISB No. 5436
MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED
101 S. Capitol Blvd., 10th Floor
Post Office Box 829
Boise, Idaho 83701
Telephone (208) 345-2000
Facsimile (208) 385-5384
slc@moffatt.com
ask@moffatt.com
18-936.14

Attorneys for Idaho Dairymen's Association

BEFORE THE IDAHO DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO

IN THE MATTER OF DISTRIBUTION OF
WATER TO WATER RIGHT NOS.
36-15501, 36-02551, AND 36-07694.

**IDAHO DAIRYMEN'S
ASSOCIATION'S REPLY RE:
MOTION FOR ORDER
AUTHORIZING LIMITED
DISCOVERY**

The Idaho Dairymen's Association ("IDA"), by and through its counsel of record MOFFATT, THOMAS, BARRETT, ROCK & FIELDS, CHTD., hereby replies to Rangen, Inc.'s Motion for Order Authorizing Limited Discovery ("Motion") and responds to IGWA's Response to Motion for Order Authorizing Limited Discovery ("IGWA Response"). IDA did not initially respond to the Motion because it did not, as a general proposition, disagree with the proposals set forth therein. However, IGWA's Response raised issues which IDA feels it must address.

First, IGWA asserts that “[a] discovery period of two to three months seems more than adequate to cover discovery of all facts in this case.” IGWA Response, p. 3. IDA disagrees. This matter is factually complicated, and its resolution depends in large part on complex analyses involving groundwater modeling and expert testimony. Moreover, many of the potential expert witnesses in this matter are involved in the Surface Water Coalition’s delivery call, making the scheduling of expert depositions (and potentially those of fact witnesses) complicated at best. Therefore, IDA concurs with Rangen that a minimum of six months will be necessary to conduct meaningful discovery.

Second, IDA shares IGWA’s concern about its members’ continued ability to divert and use groundwater. However, nothing will be gained by an overly-hasty and inappropriately truncated discovery process. Placing a time limit of two to three months on discovery is not workable.

Third, IGWA asserts that much of the background information regarding the Department’s groundwater model is available publicly. IDA notes that in the Surface Water Coalition Delivery Call matter, the Director recently stated that:

It has come to the Director’s attention that in some instances parties have requested information relating to this contested case from the Department pursuant to the Idaho Public Records Act. The Director has previously described to the parties the procedure to be followed by the Department in responding to information requests. Such requests will not be treated as requests under the Public Records Act because the requirement to serve all parties with copies of the information provided is inconsistent with the principles of confidentiality inherent in the processing of an information request made under the Public Records Act.

Correspondence from Karl Dreher to Surface Water Coalition delivery call parties dated August 26, 2005.

IDA opposes any effort to impede its right to conduct full discovery in accordance with the Department's Rules of Practice and Procedure and the Idaho Rules of Civil Procedure. Therefore, for the reasons set forth herein, the IDA respectfully requests that any discovery period be set for a minimum of six months, in order to allow comprehensive discovery to take place.

DATED this 2nd day of September, 2005.

MOFFATT, THOMAS, BARRETT, ROCK &
FIELDS, CHARTERED

By Scott L. Campbell
Scott L. Campbell – Of the Firm

By Angela Schaer Kaufmann
Angela Schaer Kaufmann – Of the Firm
Attorneys for Idaho Dairymen's
Association

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of September, 2005, I caused a true and correct copy of the foregoing **IDAHO DAIRYMEN'S ASSOCIATION'S REPLY RE: MOTION FOR ORDER AUTHORIZING LIMITED DISCOVERY** to be served by the method indicated below, and addressed to the following:

Josephine P. Beeman
Beeman & Associates P.C.
409 W. Jefferson Street
Boise, ID 83702

☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile

Neal & Nancy Bowman
402 South 750 East
Dietrich, ID 83324

☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile

Donald Bray
Scott Huxbold
P.O. Box 156
Bliss, ID 83314

☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile

Barbara Scott Brier
Department of the Interior
Office of the Solicitor
500 NE Multnomah Street, Suite 607
Portland, OR 97232

☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile

Chuck Brockway
Webb Basin Dairy
2016 N. Washington Street, Suite 4
Twin Falls, ID 83301

☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile

Arlen & Marylee Buerkle
343 South 300 West
Rupert, ID 83350

☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile

Vic Conrad
J.R. Simplot Company
P.O. Box 27
Boise, ID 83707-0027

☒ (X) U.S. Mail, Postage Prepaid
☐ () Hand Delivered
☐ () Overnight Mail
☐ () Facsimile

Michael C. Creamer
Jeffrey Fereday
Givens Pursley LLP
601 W. Bannock Street PO Box 2720
Boise, ID 83701-2720

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Richard Dinges
Taylor Engineering
2490 East 1700 South
Gooding, ID 83330

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Gene & Judy Fredericksen
200 North 349 East
Jerome, ID 83338

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Dana L. Hofstetter
608 W. Franklin
Boise, ID 83702

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Louis Leon Hubsmith
647 East 130 South
Dietrich, ID 83324

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Scott Jensen
Jensen Dairy Farm
600 West 300 South
Heyburn, ID 83336

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Jerome Country Club
P.O. Box 136
Jerome, ID 83338

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Delbert Kohtz
1135 Valley Road South
Eden, ID 83325

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Roger D. Ling
Ling Robinson & Walker
P.O. Box 396
Rupert, ID 83350-0396

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

James Lochhead
Brownstein Hyatt & Farber
410 17th Street, 22nd Floor
Denver, CO 80202

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Magic Valley Ground Water District
1099 North 400 West
Rupert, ID 83350

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Ed & Alpha Mahler
366 N. Meridian
Rupert, ID 83350

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

J. Dee May
May Sudweeks
P.O. Box 1846
Twin Falls, ID 83303-1846

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

E. Gail McGarry
Bureau of Reclamation
PN-3100
1150 N. Curtis Road, Suite 100
Boise, ID 83706-1234

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Jerry & Patty Nance
814 Highway 24
Dietrich, ID 83324

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

North Snake Ground Water District
152 East Main Street
Jerome, ID 83338

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Vernon Ravesncroft
1328-B Shoestring Road
Bliss, ID 83314

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

Hubert & Rita Shaw
Shaw Land & Livestock
411 South 750 East
Dietrich, ID 83324

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile

John K. Simpson
Barker Rosholt & Simpson
205 N. 10th Street, Suite 520
P.O. Box 2139
Boise, ID 83701

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Daniel V. Steenson
Ringert Clark Chtd.
455 S. Third Street PO Box 2773
Boise, ID 83701-2773

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Michael Stevens
Lava Lake Land & Livestock
P.O. Box 2249
Hailey, ID 83333

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

R.C. Stone
Parsons Smith Stone
P.O. Box 910
Burley, ID 83318

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Donald & Beverly Taber
Donley Farms
501 East 20 North
Shoshone, ID 83352

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

J. Tim Thomas
Deputy Attorney General
P.O. Box 7129
Boise, ID 83707-1129

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Travis Thompson
Barker Rosholt & Simpson
113 Main Avenue, Suite 303
Twin Falls, ID 83301-6167

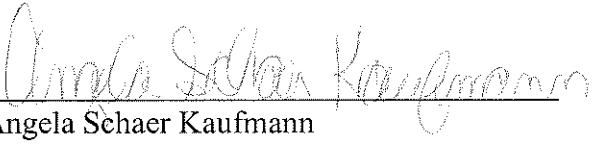
☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Alexandra V. Viscusi
Department of the Interior
Office of the Solicitor
550 W. Fort Street, MSC 020
Boise, ID 83724

☒ U.S. Mail, Postage Prepaid
☐ Hand Delivered
☐ Overnight Mail
☐ Facsimile

Ralph Stanley Ward
917 East 470 South
Dietrich, ID 83324

(X) U.S. Mail, Postage Prepaid
() Hand Delivered
() Overnight Mail
() Facsimile


Angela Schaer Kaufmann